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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/782,590	01/13/1997	SAMUEL ROSE	43/24	9631

7590 10/12/2006  
JOHN Q MCQUILLAN  
125 CRESTWOOD AVENUE  
TUCKAHOE, NY 10707-2208

EXAMINER
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UNGAR, SUSAN NMN

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 10/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

1. The reply filed on December 17, 2004, a copy of which was resubmitted September 14, 2006, is not fully responsive to the prior Office action because in the Response to the Notice of Non-Compliant Amendment, mailed November 19, 2004, Applicant's submission did not accurately reflect the status of the claims as required. The submitted claims disclosed that claims 1-83 were pending and clearly identified the status of claims 1-68, 70-74, 77-82 as "original", claims 69, 75-76, 83 as "previously presented". A review of the prosecution reveals that claims 1-87 were originally filed. There is no reference in the set of claims submitted on December 17, 2004 to claims 85-87. Further, on September 29, 1997 claims 1, 5, 6, 8, 13, 23, 26-27, 29, 34, 40-43, 47, 51, 55, 69, 70, 72, 75, 76 were amended. In addition, between September 29, 1997 and October 30, 2003, numerous amendments to the claims were submitted and numerous claims were canceled. None of these amendments or cancellation of claims are referred to in the submitted claim set.

2. It is noted that in the Response to the Request to have Final Rejection of March 26, 2004 Withdrawn as Being Premature mailed November 3, 2004, Director Jasmine Chambers clearly delineated the problems with the claim sets in the file at that time. In particular, Director Chambers stated that among the issues which merit discussion are "a) Which set of claims presented on 30 October 2003 are pending in this application) Which claims are pending or number of claims pending". Director Chambers specifically stated that

"The preliminary amendment filed on 30 October 2003 along with the Request for Continued Prosecution Application has claims 1-83 (Set A). This set of claims includes the canceled claims 82 and 83 (see the amendment and response filed on 10 January 2003). Further in this set (set A) of claims, claims 69-83 are different from the second set (Set B) of claims. The second set (set B) of claims 1-87 filed on 30 October 2003, includes claims 84-87, which were not present in the

first set (set A) of claims or were originally present in the application. The content of claims 69-83 of set B is different from the set A of claims.

Thus, it is not clear which set of claims applicants had intended to be considered as pending claims.”

Thus, Applicant has been notified on two occasions that the claim sets in the file as currently constituted are improper and why they are improper. This is the third notification of improper claim set and the second Notice of Non-Compliant Amendment. Thus Applicant’s response to the Notice of Non-Compliant Amendment mailed November 17, 2004 is not considered a *bona fide* attempt to provide a complete reply. Applicant is required to submit a proper claim set indicating the status of the claims, including claims that have been canceled, claims that are amended, the number of times amended and those that are were previously amended.

3. Although the date of the petition under 35 CFR 1.136(a) is December 17, 2004, given the delay in prosecution and in the interests of customer service, the effective date for the submission under 37 CFR 1.136(a) is reset to September 14, 2006. Since the date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee, this date is now reset to September 14, 2006. In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in an Office action. **A fully responsive reply must be timely filed to avoid abandonment of this application.**

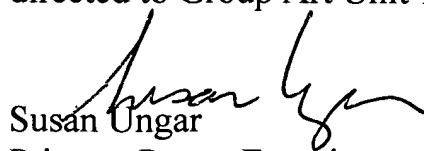
4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Ungar, PhD whose telephone number is

(571) 272-0837. The examiner can normally be reached on Monday through Friday from 7:30am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew, can be reached at 571-272-0787. The fax phone number for this Art Unit is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Effective, February 7, 1998, the Group and/or Art Unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to Group Art Unit 1642.

  
Susan Ungar  
Primary Patent Examiner  
September 20, 2006